

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE                    §  
PETITION OF KENNETH DEPUTY § No. 64, 2012  
FOR A WRIT OF MANDAMUS            §

Submitted: February 27, 2012  
Decided: April 9, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

**ORDER**

This 9th day of April 2012, upon consideration of Kenneth Deputy's petition for a writ of mandamus and the State's answer and motion to dismiss, it appears to the Court that:

(1) On February 7, 2012, Kenneth Deputy filed a petition seeking to invoke the original jurisdiction of this Court pursuant to Supreme Court Rule 43 to issue an extraordinary writ of mandamus directed to the Superior Court. Deputy requests that the President Judge of the Superior Court be directed to review the assigned trial judge's alleged mishandling of his civil action pending in that court. Alternatively, Deputy requests that the assigned trial judge be directed to schedule his case for trial. The State of Delaware has filed an answer and a motion to dismiss the petition for a writ of mandamus.

(2) A writ of mandamus is an extraordinary remedy that may be issued by this Court to compel a trial court to take a specific action if the defendant can

establish that: (i) he has a clear right to the performance of a duty; (ii) he has no other adequate remedy available to him; and (iii) the trial court has arbitrarily refused to act.<sup>1</sup> With respect to Deputy's request that the President Judge of the Superior Court be compelled to review the trial court's handling of his case, we find no basis to issue a writ of mandamus because Deputy cannot establish that he has a right to such a review, nor can he establish that the President Judge has arbitrarily refused to act. More importantly, Deputy has an adequate remedy in the appellate process to obtain review of the trial court's actions in his case. Accordingly, Deputy's first request for relief must be denied.

(3) With respect to Deputy's alternative request that the assigned judge be compelled to set a trial date, it appears that the trial judge entered a scheduling order in his case on April 3, 2012 setting a date for trial. Accordingly, Deputy's alternative request is moot.

NOW, THEREFORE, IT IS ORDERED that the within petition for a writ of mandamus is hereby DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>1</sup> *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).